

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA	:	CASE NO. 3:18-cr-00032
Plaintiff,	:	(Judge Thomas M. Rose)
v.	:	
STERLING H. ROBERTS	:	<u>UNOPPOSED MOTION TO DECLARE</u>
Defendant.	:	<u>THE CASE COMPLEX AND TO</u>
	:	<u>CONTINUE TRIAL DATE</u>

Now comes the Defendant, Sterling Roberts, by and through his attorneys, and moves this Court to declare this case complex for speedy trial purposes pursuant to 18 U.S.C. §3161 (h)(7)(B) (ii). The Defendant also moves to continue the trial pursuant to 18 U.S.C. §3161 (h)(7)(A) and (B). The Government, through its counsel, has advised that it does not oppose this Motion. In support of the Motion, the Defendant offers the following:

1. On March 13, 2018, a federal grand jury returned a nine page, six count indictment charging six defendants with multiple offenses, including stalking in violation of 18 U.S.C. §2261A(2)(A) and 2 (Counts 1 and 3), felon in possession of a firearm in violation of 18 U.S.C. §922(g)(1) and 924(a)(2) and 2 (Count 2), and discharge of a firearm during and in relation to a crime of violence in violation of 18 U.S.C. §924(c)(1)(A)(iii) and (j) and 2 (Count 4). Count 4 further alleged that the discharge of the firearm was in relation to the murder of Robert Caldwell. The Government further requested special findings on Count 4 against the Defendants Sterling Roberts and

Tawney Caldwell, findings that render these Defendants “death-eligible,” and potentially subject to a sentence of death.

2. The scope of the investigation and prosecution is broad. On January 29, 2019, the Government produced a voluminous set of discovery materials, consisting of many gigabytes of electronically stored information. Many of these discovery materials are subject to a Protective Order already entered by the Court. (ECF No. 137).
3. Because of the nature of the prosecution, the number of parties, the volume of discovery provided and expected to be provided, and the extra-judicial procedural mechanisms invoked when a case is indicted as death-eligible, the Defendant submits that this case is complex and, as a result, it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by 18 U.S.C. §3161 (c)(1).
4. Based on the foregoing, the Defendant Sterling Roberts requests that the Court declare this case “complex” for speedy trial purposes pursuant to 18 U.S.C. §3161(h)(7)(B)(ii). The Defendant further requests, and the Government does not oppose, the continuance of the trial pursuant to 18 U.S.C. §3161(h)(7)(A) and (B). In accordance with the Court’s instructions, the parties will meet and confer to discuss a proposed schedule for this case to be provided to the Court on or before the scheduling conference set for March 12, 2019.
5. In support of this motion, it has been countersigned by the Defendant Sterling Roberts acknowledging his voluntary waiver of his speedy trial rights to ensure that he and his counsel have adequate time to prepare for trial.

Respectfully submitted,

/s/ James P. Fleisher

James P. Fleisher (0059509)
BIESER, GREER & LANDIS, LLP
6 North Main Street, Suite 400
Dayton, OH 45402-1908
PHONE: (937) 223-3277
FAX: (937) 223-6339
E-MAIL: jpf@biesergreer.com

/s/ Donald J. Malarcik

Donald J. Malarcik (0061902)
MALARCIK, PIERCE, MUNYER & WILL
The Gothic Building
54 East Mill Street, Suite 400
Akron, OH 44308
PHONE: (330) 253-0785
FAX: (330) 253-7432
E-MAIL: don@gmpdefense.com

Appointed Counsel for
Defendant, Sterling H. Roberts


Sterling H. Roberts

CERTIFICATE OF SERVICE

This is to certify that on the 6th day of ~~January~~^{February} 2019 a true and correct copy of the foregoing document was electronically filed with the Clerk of the Court using the ECF system and that a true and correct copy of the foregoing document was electronically mailed to the United States Attorney's Office.

/s/ James P. Fleisher

James P. Fleisher (0059509)
BIESER, GREER & LANDIS, LLP